

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MICHAEL R. JAFFE,

Plaintiff,

-against-

MAYOR BILL DEBLASIO; COMPTROLLER
SCOTT STRINGER,

Defendants.

19-CV-8525 (CM)

ORDER OF DISMISSAL

COLLEEN McMAHON, Chief United States District Judge:

Plaintiff, appearing *pro se*, brings this action invoking the Court’s diversity jurisdiction and asserting claims for “usurious business contract (slavery and risk of life) due process and maintenance of U.S. Citizenship.” By order dated September 16, 2019, the Court granted Plaintiff’s request to proceed without prepayment of fees, that is, *in forma pauperis*. The Court dismisses the complaint for the reasons set forth below.

STANDARD OF REVIEW

The Court must dismiss a complaint, or portion thereof, that is frivolous or malicious, fails to state a claim upon which relief may be granted, or seeks monetary relief from a defendant who is immune from such relief. 28 U.S.C. §§ 1915(e)(2)(B), 1915A(b); *see Abbas v. Dixon*, 480 F.3d 636, 639 (2d Cir. 2007). While the law mandates dismissal on any of these grounds, the Court is obliged to construe *pro se* pleadings liberally, *Harris v. Mills*, 572 F.3d 66, 72 (2d Cir. 2009), and interpret them to raise the “strongest [claims] that they suggest,” *Triestman v. Fed. Bureau of Prisons*, 470 F.3d 471, 474-75 (2d Cir. 2006) (internal quotation marks and citations omitted) (emphasis in original).

A claim is frivolous when it “lacks an arguable basis either in law or in fact.” *Neitzke v. Williams*, 490 U.S. 319, 324-25 (1989), *abrogated on other grounds by Bell Atl. Corp. v.*

Twombly, 550 U.S. 544 (2007); *see also Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992) (holding that “finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible”); *Livingston v. Adirondack Beverage Co.*, 141 F.3d 434, 437 (2d Cir. 1998) (“[A]n action is ‘frivolous’ when either: (1) the factual contentions are clearly baseless . . . ; or (2) the claim is based on an indisputably meritless legal theory.”) (internal quotation marks and citation omitted).

BACKGROUND

Plaintiff Michael Jaffe’s claims arose during the “Democratic National Debate” on “approx. Sept. 1, 2019.” (1:19-CV-8525, ECF 2, 5.) He alleges the following:

Mayor Bill DeBlasio stated that he ‘confiscated’ \$500 million from me, Michael R. Jaffe on TV at National Debate. Under Investment Banking Rules of Engagement I suggest a 17% investment banking commission for myself. I do not agree to unreasonable bill of attainder and I did suffer revoked containment (no bail) as a result of the fraud theft.

(*Id.* at 5.) Plaintiff seeks “a 17% banking commission for [himself] with coplaintiff U.S. Treasury to be split evenly with possible punitive compensation of \$500 million to U.S. Treasury.” (*Id.* at 6.)

DISCUSSION

Even when read with the “special solicitude” due *pro se* pleadings, *Triestman*, 470 F.3d at 474-75, Plaintiff’s claims rise to the level of the irrational, and there is no legal theory on which he can rely. *See Denton*, 504 U.S. at 33; *Livingston*, 141 F.3d at 437.

District courts generally grant a *pro se* plaintiff an opportunity to amend a complaint to cure its defects, but leave to amend is not required where it would be futile. *See Hill v. Curcione*, 657 F.3d 116, 123-24 (2d Cir. 2011); *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Because the defects in Plaintiff’s complaint cannot be cured with an amendment, the Court

declines to grant Plaintiff leave to amend and dismisses the action as frivolous. *See* 28 U.S.C. § 1915(e)(2)(B)(i).

This is not the first frivolous action that Plaintiff has filed. *See, e.g., Jaffe v. Murphy*, No. 18-CV-1011 (WFK) (LB) (E.D.N.Y. Mar. 6, 2018) (“Plaintiff’s claims are not plausible and can be dismissed as factually frivolous.”). Accordingly, Plaintiff is warned that further vexatious or frivolous litigation in this Court can result in an order barring Plaintiff from filing new actions *in forma pauperis* unless he receives prior permission. *See* 28 U.S.C. § 1651.

CONCLUSION

The Clerk of Court is directed to assign this matter to my docket, mail a copy of this order to Plaintiff, and note service on the docket.

Plaintiff’s complaint is dismissed as frivolous under 28 U.S.C. § 1915(e)(2)(B)(i). Plaintiff is warned that further vexatious or frivolous litigation in this Court can result in an order barring him from filing new actions *in forma pauperis* without prior permission

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *See Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

The Clerk of Court is directed to docket this as a “written opinion” within the meaning of Section 205(a)(5) of the E-Government Act of 2002.

SO ORDERED.

Dated: September 16, 2019
New York, New York



COLLEEN McMAHON
Chief United States District Judge